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## ST. MARYS JUDGE WON'T HEAR CASE

### Dorsey To Disqualify Self In Newspaper Hearing

Leonardtown, Md., Sept. 15 [Special]—Circuit Judge Philip H. Dorsey, who initiated indictment of two St. Marys county newspaper executives for criticizing him, said yesterday he would disqualify himself from ruling on their motions for dismissal.

The motions were filed with Judge Dorsey by Sheridan Fahnestock, publisher of the Lexington Park *Enterprise*, and Alfred Toombs, managing editor. They are under \$100 bond each on charges of maintaining a public nuisance and obstructing justice.

Two editorials and an article in the weekly newspaper concerning Judge Dorsey's appointment of two county political leaders to new property-condemnation boards are the basis of the indictments.

#### Dismissal Sought

Mr. Fahnestock, 46, and Mr. Toombs, 44, have filed motions to dismiss the indictments brought by a county grand jury, claiming they do not charge any crime or contempt under Maryland law or the Federal Constitution.

Walter Dorsey, county prosecutor and son of the judge, said

the charges are common law misdemeanors.

Judge Dorsey asked the grand jury Monday to consider if the *Enterprise* articles about the boards "would destroy public confidence in them and render their work useless and whether these actions have brought about a clear and present danger to the administration of justice."

The grand jury called all employees of the newspaper except Mr. Fahnestock and Mr. Toombs.

Judge Dorsey in his charge to the jury said:

#### Charge To Jury

"Certainly in reporting news articles of pending matters and pending litigation a newspaper should be allowed, as it is by law, the greatest latitude.

"It has long been recognized that the press possesses not only the privilege but the right to criticize the courts editorially.

"But the editorials of a newspaper — especially a weekly newspaper — where the editor has time to marshal all the facts, are supposed to reflect its opinion based upon the truth. When a newspaper deliberately attempts to warp facts and convey a false impression editorially it is not acting in good faith."

The jurist declined to use his power to cite the newspaperman for contempt.

Judge Dorsey has been a dominant Democratic politician in St. Marys for some fifteen years. He owned the *Enterprise* for twenty years, selling it eleven years ago to Mr. Fahnestock, a former explorer of South Pacific islands and ex-director of international public relations for Trans-World Airlines.

#### Other Posts Held

The paper opposed Judge Dorsey's election to the bench last year. Mr. Toombs said it did so "vehemently."

"Since I came here two years ago and long before that the paper has opposed the operation of the 'count house gang'," the managing editor said.

Mr. Toombs is a former Washington newspaperman, having worked for the defunct *Times*, the *Daily News* and *The Star*. He has been living in St. Marys county since 1947 and is the author of three novels.

Judge Dorsey had served as county prosecutor, member of the State House of Delegates, State senator and people's legal representative before the Public Service Commission.

He was an unsuccessful candidate for the Democratic nomination for Attorney General in 1954. After his election last year and before he officially became a judge, he was chairman of a State Democratic convention at which "old guard" leaders were ousted from control.